

REMARKS

The Office Action of December 18, 2002, and the prior art relied upon therein have been carefully reviewed. The claims in the application remain as claims 1-20, and these claims define patentable subject matter warranting their allowance. Accordingly, applicants respectfully request favorable reconsideration and allowance.

Acknowledgement by the PTO of the receipt of applicants' papers filed under §119 is noted.

The PTO has objected to claims 12 and 13 as being improperly multiply dependent. This is incorrect. Attention is respectfully invited to applicants' preliminary amendment where both claims 12 and 13 were amended to depend only from claim 10. A duplicate (freshly re-signed) copy of such preliminary amendment is attached hereto.

The paragraph noting the aforementioned claim objection further indicates that claims 12 and 13 "have not been further treated on the merits". Applicants understand that this means that the examiner has not treated claims 12 and 13 with respect to the prior art. As these claims were presented in proper form, applicants respectfully request that they now be given a first action on the merits.

Claims 1-20 have been rejected under the second paragraph of §112. The rejection is respectfully traversed.

While applicants agree that the claims as originally presented were not in the best possible form under U.S. practice, on the other hand applicants believe that the claims as previously submitted, particularly considered in light of applicants' specification (fully consistent with the law), would not have been confusing to those skilled in the art, and therefore the claims in their previous form were fully in accordance with §112. At **worst**, such claims in their previous form might be considered objectionable, but **only** as to form.

Nevertheless, in deference to the examiner's views and to avoid needless argument, a number of cosmetic amendments have been made in the claims. The term "perforated pores" has been changed to "through hole", and other cosmetic amendments have also been made. The amendments are of a formal nature only, i.e. made to place the claims in better form consistent with US practice. Such amendments are not "narrowing" amendments because the scope of the claims has not been reduced. No limitations have been added and none are intended.

Applicants respectfully request withdrawal of the rejection.

Claims 1, 2, 4, 6, 9-11, 18 and 20 have been rejected under §102 as anticipated by Saijo et al WO 98/56052, corresponding to USP 6,444,348 (Saijo). This rejection is respectfully traversed.

First, applicants believe that Saijo is not prior art under §102(b). Its PCT publication date was December 10, 1998, whereas the present application was filed on January 29, 1999. Consequently, the difference is less than one year, and Saijo is not applicable under §102(b).¹

However, even if Saijo were available as prior art, it would still not anticipate applicants' claims. In Saijo, the safety valve comprises the hole 13 and the flap thereabove defined by the cut 14 in the overlying film laminated thereto, the tongue-like cut 14 being connected along the line 15 to the remainder of the film 10, noting especially the top paragraph at column 5 Saijo USP '348. The Saijo construction, by virtue of the cut 14, does not obstruct release of gas from within the battery casing.

The present invention is importantly different because there is no cut in the organic coating or the organic

¹ Applicants further note that the present application, in which the inventors overlap with those of Saijo, is entitled to its Japanese priority date of February 3, 1998, which is **earlier** than the Saijo filing date of June 5, 1998.

resin film applied on the metal foil. The construction in accordance with the present invention protects the metal foil from damage or corrosion, it being further noted that the thin metal foil also is not perforated or cut. Still, the construction according to the present invention functions very well, as the safety valve will burst (rather than the battery container itself) when the pressure within the container exceeds a certain level, e.g. 30 kgf/c².

Also in Saijo, contrary to the present invention, the metal foil 12 is placed on one side of the substrate 11, whereas the resin film is placed on the opposite side of the substrate. In the present invention, to the contrary, the organic coating (or the protecting organic film) is on the metal foil itself.

Saijo does not anticipate any of applicants' claims, and applicants respectfully request withdrawal of the rejection.

Claims 3, 5, 7, 8, 14-17 and 19 have been rejected as obvious under §103 from Saijo in view of Batson et al USP 6,001,504 (Batson). This rejection is respectfully traversed.

Saijo has been discussed above, along with its deficiencies (even assuming it is available for application as "prior art"). Batson was filed March 11, 1998, after applicants' priority date. Regardless, and even if Batson

were available as prior art, the only relevant disclosure in Batson is in Fig. 7 which shows a fill hole 46 employed to pressure test and fill the cell with electrolyte after welding on the cover assembly 14', the fill hole 46 being then plugged with a stainless steel ball which is welded in place by laser or TIG welding (col. 4, lines 25-31).

While it is questionable, even doubtful, that the plugged fill hole 46 constitutes a safety valve, at least the Fig. 7 embodiment of Batson initially provides a hole which is then covered, and that is the closest that Batson comes to the present invention. However, Batson is so unrelated to either Saijo or what applicants wish to achieve that one having ordinary skill in the art would never seek to combine Batson with Saijo, more particularly to abstract anything from Batson for inclusion in or modification of Saijo. In other words, Batson teaches nothing about providing a safety valve for a battery casing, and the person of ordinary skill in the art, seeking to provide an improved safety valve and starting with Saijo, would not even consider learning anything from Batson.

The two citations are not reasonably combinable, without out having first reviewed applicants' specification. As applicants' specification was not available to one of ordinary skill in the art at the time the present invention was made, per §103, the person of ordinary skill in art would

never have sought to even to attempt to combine these diverse citations.

Applicants respectfully request withdrawal of the rejection.

The prior art documents made of record and not relied upon have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their application against any of applicant s' claims.

Applicants respectfully request favorable reconsideration and allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



Sheridan Neimark
Registration No. 20,520

SN:jaa
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\O\Ohta\okamoto7\pto\amd 18mr03.doc